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Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

REISSUE APPLICATION DECLARATION BY THE INVENTOR

Docket Number (Optional)

97-060A

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is described and claimed in patent number 5,579,820, granted December 3, 1996, and for which a reissue patent is sought on the invention entitled Roll-Up Door for Vehicle Shelters

the specification of which

☒ is attached hereto.

☐ was filed on _____ as reissue application number ____ / _____
and was amended on _____
(if applicable)

I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below. (Check all boxes that apply.)

- ☐ by reason of a defective specification or drawing.
- ☒ by reason of the patentee claiming more or less than he had the right to claim in the patent.
- ☐ by reason of other errors.

At least one error upon which reissue is based is described as follows:

See attached "Statement of Error under 37 C.F.R. 1.175(a)(3)" (5 pages) incorporated herein by reference.

[Page 1 of 2]

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(REISSUE APPLICATION DECLARATION BY THE INVENTOR, page 2)

Docket Number (Optional)
97-060A

All errors corrected in this reissue application arose without any deceptive intention on the part of the applicant. As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Name(s) Registration Number
Matthew C. McNeill 35,281

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OR

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Full name of sole or first inventor (given name, family name)
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Date December 3, 1998
Citizenship CANADIAN

Full name of third joint inventor (given name, family name)

Inventor's signature
Residence
Post Office Address
Date
Citizenship

☐ Additional joint inventors are named on separately numbered sheets attached hereto.

DEC 03 '98 04:57PM 017

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REISSUE APPLICATION BY THE INVENTOR, OFFER TO SURRENDER PATENT		Docket Number (Optional) 97-060A
This is part of the application for a reissue patent based on the original patent identified below.		
Name of Patentee(s) LePage, Robert and Paradis, Michel;		
Patent Number 5,579,820	Date Patent Issued December 3, 1996	
Title of Invention Roll-Up Door for Vehicle Shelters		
I am the inventor of the original patent.		
I offer to surrender the original patent.		
1. <input type="checkbox"/> Filed herein is a certificate under 37 CFR 3.73(b).		
2. <input checked="" type="checkbox"/> Ownership of the patent is in the inventor(s), and no assignment of the patent has been made.		
One of boxes 1 or 2 above must be checked.		
The written consent of all assignees owning an undivided interest in the original patent is included in this application for reissue.		
Signature X <i>Robert LePage</i>		Date December 3, 1998
Typed or printed name Robert LePage		
The assignee owning an undivided interest in said original patent is _____ and the assignee consents to the accompanying application for reissue.		
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application, any patent issued thereon, or any patent to which this declaration is directed.		
Name of assignee		
Signature of person signing for assignee		Date
Typed or printed name and title of person signing for assignee		

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09205318-120398

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Reissue Application of:

Patentees: LePage, R. and Paradis, M.

Patent Number: 5,579,820

Granted: December 3, 1996

For: Roll-Up Door for Vehicle Shelters

STATEMENT OF ERROR UNDER 37 C.F.R. §1.175(a)(3)

During preparation and prosecution of the application resulting in the original issuance of the Patent (5,579,820), the primary focus was on a roll-up closure device in the specific environment of a vehicle shelter. As a result, limitations were erroneously included in the claims that were dictated by this environment of use rather than being required for patentability, leading to us (the applicants) claiming less than that to which we were entitled.

Specifically, the preamble of claim 1 (the only independent claim) requires that the roll-up closure device be "typically for use on vehicle shelters of the type defining at a front end thereof" a door opening. The closure device of the invention, however, can be used in conjunction with any doorway or opening, not just one associated with a vehicle shelter. The preamble goes on to state that the door opening has lateral sides "which diverge from top to bottom." Again, it is our belief that the inventive closure could be used on a doorway or opening that does not have divergent lateral sides.

NOT
VBT
SPECIFIC

09205319-120399

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LePage, R. and Paradis, M.
for U.S. Patent 5,579,820

Claim 1, in the body thereof, requires that the "guide means" or rails 22 mounted at the lateral sides of the door be disposed so that they are "diverging from top to bottom." Similarly, claim 1 requires the curtain to include "diverging lateral side edges." However, this divergence is a byproduct of the fact that our door is disposed on a vehicle shelter comprised of a series of arched members 10 which similarly diverge from top to bottom. To make the opening as large as possible, the closure or door disclosed in the application was sized and shaped to match the divergence of the side edges of the structure, leading in turn to the curtain edges as well as the guide means or rails 22 being similarly divergent. That is, these limitations are tied to the unnecessary limitations identified in the preamble to the claim. However, neither the environmental limitations in the preamble, nor the limitation of divergent curtain edges, nor the limitation of divergent guide means are required in what we believe to be the patentable combination presented in new claim 20 - particularly the combination of a roller, a curtain secured to the roller to wind and unwind therefrom, guide members disposed adjacent the lateral sides of the opening (not necessarily divergent); guide engagement members couplable to the curtain and engageable with the guide members to restrict their movement toward the curtain center, and a discrete elastic member coupled to the curtain and disposed such that the elastic member can be stretched between the restricted guide engagement member. While the stretching of the elastic member may have been enhanced by the fact that the guide means diverged from top to bottom in the disclosed embodiment, there was no need for this limitation in the claim. Rather, non-diverging guide means could be provided at adequate spacing to stretch the elastic

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member between the guide engagement members as restricted by the guide means. Alternatively, the elastic member could be stretched between the restricted guide extension members by an external force applied to the curtain, such that the presence of the elastic member could prevent the curtain from rupturing (new claim 22). Thus, at least the inclusion in the claims of the unnecessary environmental limitations and structural limitations of diverging guide means and curtain edges are sufficient error to support reissuance of this patent. For ease of reference, independent claim 1 is reproduced below, with the erroneously-included environmental and structural limitations shown bracketed and in bold.

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1. A roll-up closure device [typically] for [use on vehicle shelters of the type defining at a front end thereof] a door opening having lateral sides [which diverge from top to bottom,] comprising a pair of guide means adapted to be mounted [to the vehicle shelter substantially] at the lateral sides of the door opening [and substantially parallel thereto thereby diverging from top to bottom] an overhead roller means adapted to be rotatably mounted inside the vehicle shelter and substantially horizontally adjacent an upper end of the door opening, a flexible closure means adapted to be secured at a top end thereof to said roller means, [at least a section of said flexible closure means having a shape which tapes in direction of said roller means] and including [diverging] lateral side edges adapted to be engaged in said guide means, whereby a rotation of said roller means causes said flexible closure means to displace along said guide means and to wind around said roller means or to unwind therefrom for displacing said flexible closure means towards an open or a closed position thereof, respectively, wherein in

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said closed position, said section of said flexible closure means
substantially completely closes the door opening.

Moreover, this error occurred without any deceptive intent. As indicated, it arose primarily because of the structure of the vehicle shelter structure on which the closure of the invention was used, leading to an unnecessary focus on that environment in the claims. Indeed, until recently, we had no appreciation that the patent was unduly narrow in this regard. However, on 25 November 98, we were contacted by Rite-Hite Holding Corporation. Rite-Hite expressed their opinion to us that our patent contained an error in that it claimed less than that to which we were entitled. When we realized that the focus in the application on diverging sideframes was unnecessary, we agreed that our claims were perhaps unduly narrow. Having come to that conclusion, we immediately authorized the filing of this reissue request.

This document is incorporated by reference into "Reissue Application Declaration by the Inventor" dated 03 December 98.